

No. 21-10017

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

CYNTHIA YELLING,
Plaintiff-Appellant,

v.

ST. VINCENT'S HEALTH SYSTEM,
Defendant-Appellee.

On Appeal from the United States District Court
for the Northern District of Alabama
No. 2:17-cv-01607-SGC

**UNOPPOSED MOTION OF AMICUS CURIAE EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION FOR LEAVE TO PRESENT ORAL
ARGUMENT ON TIME CEDED BY PLAINTIFF-APPELLANT**

GWENDOLYN YOUNG REAMS
Acting General Counsel

JENNIFER S. GOLDSTEIN
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ELIZABETH E. THERAN
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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Eleventh Circuit Local Rule 26.1.1-1, I hereby certify that the persons or entities listed below have or may have an interest in the outcome of this case:

Ascension Health (a non-profit, faith-based health care system of which Appellee is a wholly owned subsidiary)

Baker, Tammy L. (Counsel for Appellee)

Cornelius, Hon. Staci G. (Magistrate Judge for Northern District of Alabama)

Equal Employment Opportunity Commission (Amicus Curiae)

Gantz, Julie L. (EEOC Attorney)

Goldstein, Jennifer S. (Associate General Counsel, EEOC)

Jackson Lewis, P.C. (Counsel for Appellee)

Miller, Shannon L. (Counsel for Appellee)

Palmer Law, LLC (Counsel for Appellant)

Palmer, Leslie A. (Counsel for Appellant)

Reams, Gwendolyn Young (Acting General Counsel, EEOC)

St. Vincent's Health System (Appellee)

Theran, Elizabeth E. (Assistant General Counsel, EEOC)

Yelling, Cynthia Diane (Appellant)

The EEOC is not aware of any publicly traded corporations or companies that have an interest in the outcome of this case or appeal.

Pursuant to Federal Rule of Appellate Procedure 26.1, the EEOC, as a government agency, is not required to file a corporate disclosure statement.

/s/ Julie L. Gantz
JULIE L. GANTZ

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This Court has scheduled oral argument in this case for March 3, 2023. The Equal Employment Opportunity Commission (“EEOC”), which has filed a brief as amicus curiae, moves to present oral argument on time ceded by the Plaintiff-Appellant. In support of this motion, the EEOC states:

1. The EEOC is charged by Congress with administering and enforcing federal laws prohibiting workplace discrimination, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* (“Title VII”).
2. This appeal raises several important questions regarding the proper legal analysis of hostile work environments under Title VII, including: what timeframe applies; whether remarks are race-based; and whether the

evidence here reflects sufficiently severe or pervasive conduct to support a jury finding of actionable harassment.

3. The EEOC has a significant interest in the proper interpretation and application of Title VII. If upheld on appeal, the magistrate judge's decision will adversely affect the EEOC's enforcement efforts and those of private parties seeking to vindicate their rights.
4. The Plaintiff-Appellant has agreed to cede five minutes of time to the EEOC from her allotted time for oral argument. The EEOC's participation therefore will not extend the day's calendar.
5. Rule 29 of the Federal Rules of Appellate Procedure generally favors the presentation of the views of federal agencies to the courts of appeals. The EEOC has on numerous occasions argued before this Court on questions concerning the employment discrimination laws the EEOC enforces.
6. Shannon L. Miller, counsel for Defendant-Appellee, indicated that she has no opposition to this motion.

Accordingly, the EEOC respectfully requests that this Court grant this motion and permit the EEOC to present oral argument on five minutes of time ceded by the Plaintiff-Appellant.

Respectfully submitted,

GWENDOLYN YOUNG REAMS

Acting General Counsel

JENNIFER S. GOLDSTEIN

Associate General Counsel

ELIZABETH E. THERAN

Assistant General Counsel

/s/ Julie L. Gantz

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February 3, 2023

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 287 words.

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface in Times New Roman 14-point font.

/s/ Julie L. Gantz
JULIE L. GANTZ

CERTIFICATE OF SERVICE

I, Julie L. Gantz, hereby certify that on February 3, 2023, I filed the foregoing motion with the Clerk of the Court by using the CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the CM/ECF system.

/s/ Julie L. Gantz
JULIE L. GANTZ